

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: 04-CV-12253

STEVEN McDERMOTT,)
Plaintiff,)
)
vs.)
)
FEDEX GROUND PACKAGE)
SYSTEMS, INC.,)
Defendant,)
)

**DEFENDANT, FEDEX, FEDEX GROUND PACKAGE SYSTEMS, INC.'S
ANSWERS TO PLAINTIFF'S COMPLAINT**

Defendant, FedEx Ground Package Systems, Inc. ("FedEx") responds as follows to the Complaint of plaintiff Steven McDermott ("the plaintiff").

1. FedEx is without sufficient information with which to respond.
2. FedEx is without sufficient information with which to respond.
3. FedEx denies this allegation.
4. FedEx denies this allegation.
5. FedEx is without sufficient information with which to respond.
6. FedEx denies this allegation in this form.
7. FedEx denies this allegation.
8. FedEx denies this allegation.
9. FedEx denies this allegation.
10. FedEx denies this allegation.
11. FedEx denies this allegation.
12. FedEx denies this allegation.

And further answering, FedEx states as Affirmative Defenses the following:

FIRST DEFENSE

The plaintiff's complaint fails to state a cause of action for which relief may be granted.

SECOND DEFENSE

If, in fact, FedEx owed the plaintiff anything, which it denies, the same has been satisfied in full.

THIRD DEFENSE

The plaintiff's action is not timely and is barred by those statutes dealing with the limitations of actions.

FOURTH DEFENSE

That if, in fact, FedEx was negligent, which FedEx expressly denies, the negligence of the plaintiff was of a greater degree than that of FedEx, whereby the plaintiff is barred from recovery.

FIFTH DEFENSE

That if, in fact, FedEx was negligent, which the plaintiff expressly denies, the plaintiff was also negligent and any recovery or verdict for the plaintiff must be reduced by a percentage equal to the comparative negligence of the plaintiff.

SIXTH DEFENSE

That if, in fact, the plaintiff was injured through the negligence of some third party, such negligence was on the part of one for whose conduct FedEx was not responsible.

SEVENTH DEFENSE

The plaintiff's action is barred by Mass. General Laws Chapter 90 Section 34A and 34M and Chapter 231 Section 6D.

EIGHTH DEFENSE

The plaintiff has failed to meet those statutory requirements prerequisite to maintain this action.

NINTH DEFENSE

The service of process has not been properly effected on FedEx.

TENTH DEFENSE

FedEx has been improperly named.

ELEVENTH DEFENSE

The venue in which the plaintiff has brought this action is improper.

TWELTH DEFENSE

The venue in which the plaintiff has brought this action is inconvenient.

FedEx claims a trial by jury as to all triable issues.

FEDEX GROUND PACKAGE SYSTEMS, INC.
By its Attorneys,

/s/ James M. Campbell
James M. Campbell (BBO# 541882)
Anthony J. Sbarra, Jr. (BBO# 552461)
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CERTIFICATE OF SERVICE

I, James M. Campbell, certify that on February 18, 2005, I electronically filed the foregoing document and this certificate of service with the Clerk of the Court using the CM/ECF system. I hereby further certify that on February 18, 2005, I served a copy of the foregoing document by mailing a copy of same, postage prepaid, to all counsel of record:

/s/ James M. Campbell
James M. Campbell